



Senate

General Assembly

File No. 537

February Session, 2002

Substitute Senate Bill No. 564

Senate, April 18, 2002

The Committee on Finance, Revenue and Bonding reported through SEN. LOONEY of the 11th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING RECOMMENDATIONS OF THE DEPARTMENT
OF REVENUE SERVICES FOR CHANGES TO THE SALES AND USE
TAX AND CERTAIN ADMINISTRATIVE PROCEDURES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (2) of section 12-407 of the general statutes, as
2 amended by section 2 of public act 01-109 and section 1 of public act
3 01-6 of the June special session, is repealed and the following is
4 substituted in lieu thereof (*Effective from passage*):

5 (2) "Sale" and "selling" mean and include: (a) Any transfer of title,
6 exchange or barter, conditional or otherwise, in any manner or by any
7 means whatsoever, of tangible personal property for a consideration;
8 (b) any withdrawal, except a withdrawal pursuant to a transaction in
9 foreign or interstate commerce, of tangible personal property from the
10 place where it is located for delivery to a point in this state for the
11 purpose of the transfer of title, exchange or barter, conditional or
12 otherwise, in any manner or by any means whatsoever, of the property

13 for a consideration; (c) the producing, fabricating, processing, printing
14 or imprinting of tangible personal property for a consideration for
15 consumers who furnish either directly or indirectly the materials used
16 in the producing, fabricating, processing, printing or imprinting,
17 including, but not limited to, sign construction, photofinishing,
18 duplicating and photocopying, except that "sale" and "selling" do not
19 include sales of such services to vessels rendered on and after July 1,
20 1999, provided such vessels are in existence prior to the sales of such
21 services; (d) the furnishing and distributing of tangible personal
22 property for a consideration by social clubs and fraternal organizations
23 to their members or others; (e) the furnishing, preparing, or serving for
24 a consideration of food, meals or drinks; (f) a transaction whereby the
25 possession of property is transferred but the seller retains the title as
26 security for the payment of the price; (g) a transfer for a consideration
27 of the title of tangible personal property which has been produced,
28 fabricated or printed to the special order of the customer, or of any
29 publication, including, but not limited to, sign construction,
30 photofinishing, duplicating and photocopying, except that "sale" and
31 "selling" do not include sales of such services to vessels rendered on
32 and after July 1, 1999, provided such vessels are in existence prior to
33 the sales of such services; (h) a transfer for a consideration of the
34 occupancy of any room or rooms in a hotel or lodging house for a
35 period of thirty consecutive calendar days or less; (i) the rendering of
36 certain services for a consideration, exclusive of such services rendered
37 by an employee for the employer, as follows: (A) Computer and data
38 processing services, including, but not limited to, time, programming,
39 code writing, modification of existing programs, feasibility studies and
40 installation and implementation of software programs and systems
41 even where such services are rendered in connection with the
42 development, creation or production of canned or custom software or
43 the license of custom software, and exclusive of services rendered in
44 connection with the creation, development hosting or maintenance of
45 all or part of a web site which is part of the graphical, hypertext
46 portion of the Internet, commonly referred to as the World-Wide Web,
47 (B) credit information and reporting services, (C) services by

48 employment agencies and agencies providing personnel services, (D)
49 private investigation, protection, patrol work, watchman and armored
50 car services, exclusive of services of off-duty police officers and
51 off-duty firefighters, (E) painting and lettering services, (F)
52 photographic studio services, (G) telephone answering services, (H)
53 stenographic services, (I) services to industrial, commercial or
54 income-producing real property, including, but not limited to, such
55 services as management, electrical, plumbing, painting and carpentry
56 and excluding any such services rendered in the voluntary evaluation,
57 prevention, treatment, containment or removal of hazardous waste, as
58 defined in section 22a-115, or other contaminants of air, water or soil,
59 provided income-producing property shall not include property used
60 exclusively for residential purposes in which the owner resides and
61 which contains no more than three dwelling units, or a housing facility
62 for low and moderate income families and persons owned or operated
63 by a nonprofit housing organization, as defined in subsection (29) of
64 section 12-412, (J) business analysis, management, management
65 consulting and public relations services, excluding (i) any
66 environmental consulting services, [and] (ii) any training services
67 provided by an institution of higher education licensed or accredited
68 by the Board of Governors of Higher Education pursuant to section
69 10a-34, and (iii) on and after January 1, 1994, any business analysis,
70 management, management consulting and public relations services
71 when such services are rendered in connection with an aircraft leased
72 or owned by a certificated air carrier or in connection with an aircraft
73 which has a maximum certificated take-off weight of six thousand
74 pounds or more, (K) services providing "piped-in" music to business or
75 professional establishments, (L) flight instruction and chartering
76 services by a certificated air carrier on an aircraft, the use of which for
77 such purposes, but for the provisions of subsection (4) of section 12-410
78 and subsection (12) of section 12-411, would be deemed a retail sale
79 and a taxable storage or use, respectively, of such aircraft by such
80 carrier, (M) motor vehicle repair services, including any type of repair,
81 painting or replacement related to the body or any of the operating
82 parts of a motor vehicle, (N) motor vehicle parking, including the

83 provision of space, other than metered space, in a lot having thirty or
84 more spaces, excluding (i) space in a seasonal parking lot provided by
85 a person who is exempt from taxation under this chapter pursuant to
86 subsection (1), (5) or (8) of section 12-412, (ii) space in a parking lot
87 owned or leased under the terms of a lease of not less than ten years'
88 duration and operated by an employer for the exclusive use of its
89 employees, (iii) valet parking provided at any airport, (iv) space in
90 municipally-operated railroad parking facilities in municipalities
91 located within an area of the state designated as a severe
92 nonattainment area for ozone under the federal Clean Air Act, or space
93 in a railroad parking facility in a municipality located within an area of
94 the state designated as a severe nonattainment area for ozone under
95 the federal Clean Air Act owned or operated by the state on or after
96 April 1, 2000, (O) radio or television repair services, (P) furniture
97 reupholstering and repair services, (Q) repair services to any electrical
98 or electronic device, including, but not limited to, equipment used for
99 purposes of refrigeration or air-conditioning, (R) lobbying or
100 consulting services for purposes of representing the interests of a client
101 in relation to the functions of any governmental entity or
102 instrumentality, (S) services of the agent of any person in relation to
103 the sale of any item of tangible personal property for such person,
104 exclusive of the services of a consignee selling works of art, as defined
105 in subsection (b) of section 12-376c, or articles of clothing or footwear
106 intended to be worn on or about the human body other than (i) any
107 special clothing or footwear primarily designed for athletic activity or
108 protective use and which is not normally worn except when used for
109 the athletic activity or protective use for which it was designed, and (ii)
110 jewelry, handbags, luggage, umbrellas, wallets, watches and similar
111 items carried on or about the human body but not worn on the body in
112 the manner characteristic of clothing intended for exemption under
113 subdivision (47) of section 12-412, under consignment, exclusive of
114 services provided by an auctioneer, (T) locksmith services, (U)
115 advertising or public relations services, including layout, art direction,
116 graphic design, mechanical preparation or production supervision, not
117 related to the development of media advertising or cooperative direct

118 mail advertising, (V) landscaping and horticulture services, (W)
119 window cleaning services, (X) maintenance services, (Y) janitorial
120 services, (Z) exterminating services, (AA) swimming pool cleaning and
121 maintenance services, (BB) renovation and repair services as set forth
122 in this subparagraph, to other than industrial, commercial or
123 income-producing real property: Paving of any sort, painting or
124 staining, wallpapering, roofing, siding and exterior sheet metal work,
125 except that "sale" and "selling" do not include sales of such renovation
126 and repair services rendered on and after July 1, 2002, (CC)
127 miscellaneous personal services included in industry group 729 in the
128 Standard Industrial Classification Manual, United States Office of
129 Management and Budget, 1987 edition, or U.S. industry 532220,
130 812191, 812199 or 812990 in the North American Industrial
131 Classification System United States Manual, United States Office of
132 Management and Budget, 1997 edition, exclusive of (i) services
133 rendered by massage therapists licensed pursuant to chapter 384a, and
134 (ii) services rendered by an electrologist licensed pursuant to chapter
135 388, (DD) any repair or maintenance service to any item of tangible
136 personal property including any contract of warranty or service related
137 to any such item, except that "sale" and "selling" do not include sales of
138 such services to vessels rendered on and after July 1, 1999, (EE)
139 business analysis, management or [managing] management consulting
140 services rendered by a general partner, or an affiliate thereof, to a
141 limited partnership, provided (i) that the general partner, or an affiliate
142 thereof, is compensated for the rendition of such services other than
143 through a distributive share of partnership profits or an annual
144 percentage of partnership capital or assets established in the limited
145 partnership's offering statement, and (ii) the general partner, or an
146 affiliate thereof, offers such services to others, including any other
147 partnership. As used in subparagraph (EE)(i) "an affiliate of a general
148 partner" means an entity which is directly or indirectly owned fifty per
149 cent or more in common with a general partner, and (FF)
150 notwithstanding the provisions of section 12-412, as amended, except
151 subsection (87) thereof, patient care services, as defined in subsection
152 (29) of this section by a hospital, except that "sale" and "selling" [does]

153 do not include sales of such patient care services rendered during the
154 period commencing July 1, 2001, and ending June 30, 2003; (j) the
155 leasing or rental of tangible personal property of any kind whatsoever,
156 including, but not limited to, motor vehicles, linen or towels,
157 machinery or apparatus, office equipment and data processing
158 equipment, provided for purposes of this subdivision and the
159 application of sales and use tax to contracts of lease or rental of
160 tangible personal property, the leasing or rental of any motion picture
161 film by the owner or operator of a motion picture theater for purposes
162 of display at such theater shall not constitute a sale within the meaning
163 of this subsection; (k) the rendering of telecommunications service, as
164 defined in subsection (26) of this section, for a consideration on or after
165 January 1, 1990, exclusive of any such service rendered by an employee
166 for the employer of such employee, subject to the provisions related to
167 telecommunications service in accordance with section 12-407a, as
168 amended; (l) the rendering of community antenna television service, as
169 defined in subsection (27) of this section, for a consideration on or after
170 January 1, 1990, exclusive of any such service rendered by an employee
171 for the employer of such employee; (m) the transfer for consideration
172 of space or the right to use any space for the purpose of storage or
173 mooring of any noncommercial vessel, exclusive of dry or wet storage
174 or mooring of such vessel during the period commencing on the first
175 day of November in any year to and including the thirtieth day of
176 April of the next succeeding year; (n) the sale for consideration of
177 naming rights to any place of amusement, entertainment or recreation
178 within the meaning of subdivision (3) of section 12-540; (o) the transfer
179 for consideration of a prepaid telephone calling service, as defined in
180 subsection (34) of this section, and the recharge of a prepaid telephone
181 calling service, provided, if the sale or recharge of a prepaid telephone
182 calling service does not take place at the retailer's place of business and
183 an item is shipped by the retailer to the customer, the sale or recharge
184 shall be deemed to take place at the customer's shipping address, but,
185 if such sale or recharge does not take place at the retailer's place of
186 business and no item is shipped by the retailer to the customer, the sale
187 or recharge shall be deemed to take place at the customer's billing

188 address or the location associated with the customer's mobile
189 telephone number. Wherever in this chapter reference is made to the
190 sale of tangible personal property or services, it shall be construed to
191 include sales described in this subsection, except as may be specifically
192 provided to the contrary.

193 Sec. 2. Subdivision (1) of section 12-408 of the general statutes, as
194 amended by section 3 of public act 01-6 of the June special session, is
195 repealed and the following is substituted in lieu thereof (*Effective from*
196 *passage*):

197 (1) For the privilege of making any sales, as defined in subdivision
198 (2) of section 12-407, as amended by this act, at retail, in this state for a
199 consideration, a tax is hereby imposed on all retailers at the rate of six
200 per cent of the gross receipts of any retailer from the sale of all tangible
201 personal property sold at retail or from the rendering of any services
202 constituting a sale in accordance with subdivision (2) of section 12-407,
203 as amended by this act, except, in lieu of said rate of six per cent, (A) at
204 a rate of twelve per cent with respect to each transfer of occupancy,
205 from the total amount of rent received for such occupancy of any room
206 or rooms in a hotel or lodging house for the first period not exceeding
207 thirty consecutive calendar days, (B) with respect to the sale of a motor
208 vehicle to any individual who is a member of the armed forces of the
209 United States and is on full-time active duty in Connecticut and who is
210 considered, under 50 App USC 574, a resident of another state, or to
211 any such individual and the spouse thereof, at a rate of four and
212 one-half per cent of the gross receipts of any retailer from such sales,
213 provided such retailer requires and maintains a declaration by such
214 individual, prescribed as to form by the commissioner and bearing
215 notice to the effect that false statements made in such declaration are
216 punishable, or other evidence, satisfactory to the commissioner,
217 concerning the purchaser's state of residence under 50 App USC 574,
218 (C) (i) with respect to the sales of computer and data processing
219 services occurring on or after July 1, 1997, and prior to July 1, 1998, at
220 the rate of five per cent, on or after July 1, 1998, and prior to July 1,
221 1999, at the rate of four per cent, on or after July 1, 1999, and prior to

222 July 1, 2000, at the rate of three per cent, on or after July 1, 2000, and
223 prior to July 1, 2001, at the rate of two per cent, on or after July 1, 2001,
224 and prior to July 1, 2002, at the rate of one per cent and on and after
225 July 1, 2002, such services shall be exempt from such tax, (ii) with
226 respect to sales of Internet access services, on and after July 1, 2001,
227 such services shall be exempt from such tax, [(D) with respect to the
228 sales of labor that is otherwise taxable under subdivision (c) or (g) of
229 subsection (2) of section 12-407 on existing vessels and repair or
230 maintenance services on vessels occurring on and after July 1, 1999,
231 such services shall be exempt from such tax, (E) with respect to sales of
232 the renovation and repair services of paving of any sort, painting or
233 staining, wallpapering, roofing, siding and exterior sheet metal work,
234 to other than industrial, commercial or income-producing real
235 property, occurring on or after July 1, 1999, and prior to July 1, 2000, at
236 the rate of four per cent, with respect to such sales occurring on or after
237 July 1, 2000, but prior to July 1, 2001, at the rate of two per cent, and on
238 and after July 1, 2001, sales of such renovation and repair services shall
239 be exempt from such tax, and (F)] and (D) with respect to sales of
240 patient care services occurring on or after July 1, 1999, and prior to July
241 1, 2001, and with respect to sales of such services occurring on or after
242 July 1, 2003, at the rate of five and three-fourths per cent. The rate of
243 tax imposed by this chapter shall be applicable to all retail sales upon
244 the effective date of such rate, except that a new rate which represents
245 an increase in the rate applicable to the sale shall not apply to any sales
246 transaction wherein a binding sales contract without an escalator
247 clause has been entered into prior to the effective date of the new rate
248 and delivery is made within ninety days after the effective date of the
249 new rate. For the purposes of payment of the tax imposed under this
250 section, any retailer of services taxable under subdivision (2)(i) of
251 section 12-407, as amended by this act, who computes taxable income,
252 for purposes of taxation under the Internal Revenue Code of 1986, or
253 any subsequent corresponding internal revenue code of the United
254 States, as from time to time amended, on an accounting basis which
255 recognizes only cash or other valuable consideration actually received
256 as income and who is liable for such tax only due to the rendering of

257 such services may make payments related to such tax for the period
258 during which such income is received, without penalty or interest,
259 without regard to when such service is rendered.

260 Sec. 3. Subdivision (1) of section 12-411 of the general statutes, as
261 amended by sections 2 and 65 of public act 01-6 of the June special
262 session, is repealed and the following is substituted in lieu thereof
263 (*Effective from passage*):

264 (1) An excise tax is hereby imposed on the storage, acceptance,
265 consumption or any other use in this state of tangible personal
266 property purchased from any retailer for storage, acceptance,
267 consumption or any other use in this state, the acceptance or receipt of
268 any services constituting a sale in accordance with subdivision (2) of
269 section 12-407, as amended by this act, purchased from any retailer for
270 consumption or use in this state, or the storage, acceptance,
271 consumption or any other use in this state of tangible personal
272 property which has been manufactured, fabricated, assembled or
273 processed from materials by a person, either within or without this
274 state, for storage, acceptance, consumption or any other use by such
275 person in this state, to be measured by the sales price of materials, at
276 the rate of six per cent of the sales price of such property or services,
277 except, in lieu of said rate of six per cent, (A) at a rate of twelve per
278 cent of the rent paid for occupancy of any room or rooms in a hotel or
279 lodging house for the first period of not exceeding thirty consecutive
280 calendar days, (B) with respect to the storage, acceptance, consumption
281 or use in this state of a motor vehicle purchased from any retailer for
282 storage, acceptance, consumption or use in this state by any individual
283 who is a member of the armed forces of the United States and is on
284 full-time active duty in Connecticut and who is considered, under 50
285 App USC 574, a resident of another state, or to any such individual
286 and the spouse of such individual at a rate of four and one-half per
287 cent of the sales price of such vehicle, provided such retailer requires
288 and maintains a declaration by such individual, prescribed as to form
289 by the commissioner and bearing notice to the effect that false
290 statements made in such declaration are punishable, or other evidence,

291 satisfactory to the commissioner, concerning the purchaser's state of
292 residence under 50 App USC 574, [(C) with respect to the acceptance or
293 receipt in this state of labor that is otherwise taxable under subdivision
294 (c) or (g) of subsection (2) of section 12-407 on existing vessels and
295 repair or maintenance services on vessels occurring on and after July 1,
296 1999, such services shall be exempt from such tax, (D)] (C) (i) with
297 respect to the acceptance or receipt in this state of computer and data
298 processing services purchased from any retailer for consumption or
299 use in this state occurring on or after July 1, 1997, and prior to July 1,
300 1998, at the rate of five per cent of such services, on or after July 1,
301 1998, and prior to July 1, 1999, at the rate of four per cent of such
302 services, on or after July 1, 1999, and prior to July 1, 2000, at the rate of
303 three per cent of such services, on or after July 1, 2000, and prior to July
304 1, 2001, at the rate of two per cent of such services, on and after July 1,
305 2001, and prior to July 1, 2002, at the rate of one per cent of such
306 services and on and after July 1, 2002, such services shall be exempt
307 from such tax, and (ii) with respect to the acceptance or receipt in this
308 state of Internet access services, on or after July 1, 2001, such services
309 shall be exempt from tax, [(E)] and (D) with respect to the acceptance
310 or receipt in this state of patient care services purchased from any
311 retailer for consumption or use in this state occurring on or after July 1,
312 1999, and prior to July 1, 2001, and with respect to acceptance or
313 receipt in this state of such services occurring on or after July 1, 2003, at
314 the rate of five and three-fourths per cent. [, and (F) with respect to
315 acceptance of the renovation and repair services of paving of any sort,
316 painting or staining, wallpapering, roofing, siding and exterior sheet
317 metal work, to other than industrial, commercial or income-producing
318 real property, occurring on or after July 1, 1999, and prior to July 1,
319 2000, at the rate of four per cent, with respect to such sales occurring
320 on or after July 1, 2000, and prior to July 1, 2001, at the rate of two per
321 cent, and on and after July 1, 2001, sales of such renovation and repair
322 services shall be exempt from such tax.]

323 Sec. 4. Subdivision (9) of section 12-412 of the general statutes is
324 repealed and the following is substituted in lieu thereof (*Effective from*
325 *passage*):

326 (9) Sales of (A) food products, meals, candy, confectionery and
327 beverages, except alcoholic beverages, in a student cafeteria, dining-
328 hall, dormitory, fraternity or sorority maintained in a private, public or
329 parochial school, college or university, to members of such institutions
330 or organizations, including all sales of such items to such members at
331 such institutions or organizations using prepaid meal plan cards or
332 arrangements; and [sales of] (B) food products, meals, candy,
333 confectionery and beverages to patients, residents or care recipients in
334 hospitals, residential care homes, assisted living facilities, senior
335 centers, day care centers, convalescent homes, nursing homes and rest
336 homes, and food preparation or food services or management of such
337 services to any hospital, residential care home, assisted living facility,
338 senior center, day care center, convalescent home, nursing home or
339 rest home.

340 Sec. 5. Subdivision (89) of section 12-412 of the general statutes is
341 repealed and the following is substituted in lieu thereof (*Effective from*
342 *passage*):

343 (89) Sales of and the storage, use or other consumption of
344 machinery, equipment, tools, materials, supplies and fuel used directly
345 in the biotechnology industry. For the purposes of this subsection,
346 "biotechnology" means the application of technologies, such as
347 recombinant DNA techniques, biochemistry, molecular and cellular
348 biology, genetics and genetic engineering, biological cell fusion
349 techniques, and new bioprocesses, using living organisms, or parts of
350 organisms, to produce or modify products, to improve plants or
351 animals, [to develop microorganisms for specific uses,] to identify
352 targets for small molecule pharmaceutical development, to transform
353 biological systems into useful processes and products or to develop
354 microorganisms for specific uses.

355 Sec. 6. Section 12-39r of the general statutes is repealed and the
356 following is substituted in lieu thereof (*Effective from passage*):

357 The Commissioner of Revenue Services may allow the payment of
358 taxes, penalties, interest and fees by means of a credit card, charge card

359 or debit card and may charge the taxpayer a service fee for any such
360 payment made by [credit] any such card. The fee shall not exceed any
361 charge by the [credit] card issuer, including any discount rate.
362 Payments by [credit] any such card shall be made at such times and
363 under such conditions as said commissioner may prescribe. The debt
364 incurred through the payment of taxes by means of [a credit] any such
365 card shall not be considered a tax collectible pursuant to the provisions
366 of sections 12-35a, as amended, and 12-35b.

367 Sec. 7. Section 12-227 of the general statutes is repealed and the
368 following is substituted in lieu thereof (*Effective from passage*):

369 (a) To any refunds granted as a result of overpayment of any taxes
370 [assessed] imposed under this [part and] chapter or chapter 209, except
371 refunds due on estimated payments made with tentative returns and
372 refunds due because of payments on account of estimated tax pursuant
373 to section 12-242d which are greater than the tax disclosed to be due
374 upon the filing of the completed returns, there shall be added interest
375 at the rate of two-thirds of one per cent for each month and fraction of
376 a month which elapses between the later of [(a)] (1) the due date of
377 such taxes, or [(b)] (2) the date of making such overpayment, and the
378 date of notice by the Commissioner of Revenue Services that such
379 refunds are due. [This section shall apply to returns for all calendar or
380 fiscal years which commence on or after May 19, 1959.]

381 (b) Notwithstanding the provisions of subsection (a) of this section,
382 in the case of an overpayment claimed on a tax return that is filed after
383 the last date prescribed for filing such return, determined without
384 regard to any extension of time for filing, or claimed on an amended
385 tax return, no interest shall be allowed or paid for any month or
386 fraction of a month before the date on which such return or such
387 amended return is filed.

388 (c) Notwithstanding the provisions of subsection (a) of this section,
389 if any overpayment of tax imposed under this chapter or chapter 209 is
390 credited or refunded not later than three months after the last date
391 prescribed for filing the tax return on which such overpayment was

392 claimed, determined without regard to any extension of time for filing,
393 or within three months after such return was filed, whichever is later,
394 or within three months after an amended tax return was filed claiming
395 such overpayment, no interest shall be allowed or paid under this
396 section on any such overpayment. For purposes of this subsection, any
397 amended return filed before the last date prescribed for the filing of
398 the tax return for such year or period, determined without regard to
399 any extension of time for filing, shall be considered as filed on such last
400 date.

401 (d) Notwithstanding the provisions of subsection (a) of this section,
402 if any overpayment of tax imposed under this chapter or chapter 209
403 results from a carryback of a net operating loss or a net capital loss,
404 such overpayment shall be deemed not to have been made prior to the
405 last date prescribed for the filing of the tax return for the taxable year
406 in which such net operating loss or net capital loss arises, determined
407 without regard to any extension of time for filing. For purposes of
408 subsection (c) of this section, any overpayment described in this
409 subsection shall be treated as an overpayment for the taxable year in
410 which such net operating loss or net capital loss arises, and subsection
411 (c) of this section shall be applied with respect to such overpayment by
412 treating the return for such loss year as not filed before an amended
413 return claiming such overpayment is filed for the taxable year or years
414 to which such net operating loss or net capital loss is carried back.
415 Such treatment shall apply to any overpayment of tax imposed under
416 this chapter or chapter 209 which results from a carryback of a tax
417 credit.

418 (e) For purposes of subsections (b), (c) and (d) of this section, a
419 return shall not be treated as filed until it has been filed on an
420 authorized form, and such return contains the taxpayer's name,
421 address and identifying number and the required signatures and
422 sufficient required information, whether on the return or on required
423 attachments, to permit the mathematical verification of tax liability
424 shown on the return.

425 Sec. 8. (*Effective from passage*) The intent of the amendment to
426 subsection (b) of section 12-227 of the general statutes, made by section
427 7 of this act, is to clarify that the law does not authorize the
428 Department of Revenue Services to allow or pay interest on a
429 corporation business tax overpayment that is claimed on a late
430 corporation business tax return or on an amended corporation
431 business tax return for any month or fraction of a month that is before
432 the date on which such late return or such amended return is filed
433 with the Department of Revenue Services.

434 Sec. 9. Subsection (b) of section 12-229 of the general statutes is
435 repealed and the following is substituted in lieu thereof (*Effective from*
436 *passage and applicable to income years commencing on or after January 1,*
437 *2002*):

438 (b) If any company has not made its return within three months
439 after the time specified under the provisions of this part, the
440 commissioner may make such return at any time thereafter, according
441 to the best information obtainable and according to the form
442 prescribed. To the tax imposed upon the basis of such return, there
443 shall be added an amount equal to ten per cent of such tax, or fifty
444 dollars, whichever is greater. The tax shall bear interest at the rate of
445 one per cent per month or fraction thereof, from the due date of such
446 tax until the date of payment. No taxpayer shall be subject to a penalty
447 under both [subsections (a) and (b)] subsection (a) of this section and
448 this subsection in relation to the same tax [period] return.

449 Sec. 10. Subsection (b) of section 12-395 of the general statutes is
450 repealed and the following is substituted in lieu thereof (*Effective from*
451 *passage*):

452 (b) Any person aggrieved by any order, decision, determination or
453 disallowance of the Commissioner of Revenue Services under the
454 provisions of this chapter may, not later than one month after service
455 upon the person of notice of such order, decision, determination or
456 disallowance, make a written application for a hearing to the court of
457 probate for the district within which the decedent resided at the date

458 of his death, or within which the commissioner contends that the
459 decedent resided at the date of his death or, if the decedent died a
460 nonresident of this state, in the court of probate for the district within
461 which real estate or tangible personal property of the decedent is
462 situated, or within which the commissioner contends that real estate or
463 tangible personal property of the decedent is situated. Such application
464 shall set forth in detail the objection to the order, decision,
465 determination or disallowance of said commissioner and a copy of
466 same shall be mailed to said commissioner at the time of filing. The
467 court of probate shall assign a time and place for a hearing upon such
468 application not less than two nor more than four weeks after receipt
469 thereof and shall cause a copy of the order of hearing to be sent to said
470 commissioner and to the person aggrieved by said order, decision,
471 determination or disallowance at least ten days before the time of such
472 hearing. The commissioner or any person interested may appear
473 before the court at such hearing and be heard on any matter involved
474 in the determination of the tax. If there is no appearance on behalf of
475 the commissioner and it appears to the court that such determination
476 ought to be modified, such hearing shall be adjourned for not less than
477 ten days and notice of the time and place of such adjourned hearing
478 and of any proposed modification to such determination shall be given
479 to the commissioner, who may appear and be heard on such change.
480 At [such] any hearing under this subsection, the court shall determine
481 all matters properly before it, including the amount of such tax and
482 shall enter upon its records a decree for such amount. A copy of the
483 decree of the court of probate shall be forwarded by the judge or clerk
484 of such court to the commissioner and to the person aggrieved because
485 of such order, decision, determination or disallowance of the
486 commissioner. The determination of the tax by the Commissioner of
487 Revenue Services shall be conclusive upon the state and any person
488 aggrieved by any order, decision, determination or disallowance of the
489 commissioner unless a hearing is held as provided in this subsection,
490 in which case the decree of the court of probate shall be conclusive
491 upon the state and any person aggrieved by such order, decision,
492 determination or disallowance of the commissioner unless an appeal is

493 taken as provided for appeals from other decrees and orders of such
494 court.

495 Sec. 11. Section 12-497a of the general statutes is repealed and the
496 following is substituted in lieu thereof (*Effective from passage*):

497 (a) Neither the tax imposed by section 12-494 nor the [requirement
498 of] provision of section 12-497 for filing a return prescribed by the
499 Commissioner of Revenue Services [imposed by section 12-497] shall
500 apply to the transfer of burial rights for a lot in a cemetery organized
501 pursuant to chapter 368j.

502 (b) The provision of section 12-497 for filing a return prescribed by
503 the Commissioner of Revenue Services shall not apply to any deed,
504 instrument or writing which is solely a grant of easement and to which
505 this state, any agency of the state, any political subdivision of the state
506 or any agency of any such subdivision is a party.

507 Sec. 12. Section 12-730 of the general statutes is repealed and the
508 following is substituted in lieu thereof (*Effective from passage*):

509 Notwithstanding the provisions of chapter 54 to the contrary, any
510 taxpayer aggrieved because of any determination or disallowance by
511 the commissioner under section 12-729, 12-729a or 12-732 may, within
512 one month after notice of the commissioner's determination or
513 disallowance is mailed to the taxpayer, take an appeal therefrom to the
514 superior court for the judicial district of New Britain, which shall be
515 accompanied by a citation to the commissioner to appear before said
516 court. Such citation shall be signed by the same authority, and such
517 appeal shall be returnable at the same time and served and returned in
518 the same manner, as is required in case of a summons in a civil action.
519 The authority issuing the citation shall take from the appellant a bond
520 or recognizance to the state of Connecticut, with surety to prosecute
521 the appeal to effect and to comply with the orders and decrees of the
522 court in the premises. Such appeals shall be preferred cases, to be
523 heard unless cause appears to the contrary, at the first session by the
524 court or by a committee appointed by it. Said court may grant such

525 relief as may be equitable and, if such tax has been paid prior to the
526 granting of such relief, may order the Treasurer to pay the amount of
527 such relief, with interest at the rate of two-thirds of one per cent per
528 month or fraction thereof, to the aggrieved taxpayer. If the appeal has
529 been taken without probable cause, the court may charge double or
530 triple costs, as the case demands, and upon all such appeals which
531 may be denied, costs may be taxed against the appellant at the
532 discretion of the court but no costs shall be taxed against the state.

533 Sec. 13. Subsection (b) of section 12-735 of the general statutes is
534 repealed and the following is substituted in lieu thereof (*Effective from*
535 *passage and applicable to taxable years commencing on or after January 1,*
536 *2002*):

537 (b) If any person has not made a return within three months after
538 the time specified under the provisions of this chapter, the
539 commissioner may make such return at any time thereafter, according
540 to the best information obtainable and according to the form
541 prescribed. The making of a return by the commissioner pursuant to
542 the authority conferred under this section shall not constitute the filing
543 of a return by such person for purposes of subsection (c) of section 12-
544 733 or subsection (a) of section 12-737. To the tax imposed upon the
545 basis of such return, there shall be added an amount equal to ten per
546 cent of such tax or fifty dollars, whichever is greater. The tax shall bear
547 interest at the rate of one per cent per month or fraction thereof, from
548 the due date of such tax until the date of payment. No taxpayer shall
549 be subject to a penalty under both [subsections (a) and (b)] subsection
550 (a) of this section and this subsection in relation to the same tax
551 [period] return.

552 Sec. 14. (NEW) (*Effective from passage*) On and after January 1, 2002,
553 an erroneous refund made by the Department of Revenue Services
554 shall be considered an underpayment of tax as of the date made, and
555 an assessment of any deficiency attributable to an erroneous refund
556 may be made in the manner prescribed for making a deficiency
557 assessment under authority of the relevant provision of the general

558 statutes by the Commissioner of Revenue Services at any time within
559 three years from the making of the refund, except that the assessment
560 may be made at any time if it appears that any part of the refund was
561 induced by fraud or misrepresentation of a material fact.

562 Sec. 15. Section 12-478 of the general statutes is repealed and the
563 following is substituted in lieu thereof (*Effective from passage*):

564 Whenever used in this chapter:

565 (1) "Motor carrier" means every person, firm or corporation which
566 operates or causes to be operated on any highway in this state any
567 qualified motor vehicle;

568 (2) "Operations" means operations of all such vehicles, whether
569 loaded or empty, whether or not for compensation and whether
570 owned by or leased to the motor carrier which operates them or causes
571 them to be operated;

572 (3) "Motor fuel" means "fuels", as defined in section 12-455a; and

573 [(4) "Charter" or "special operations" means the transportation of a
574 group of persons who, pursuant to a common purpose and under a
575 single contract and at a fixed charge for the vehicle, have acquired the
576 exclusive use of a motor bus to travel together as a group to a specified
577 destination or for a particular itinerary, either agreed upon in advance
578 or modified by the charter group after leaving the place of origin; and]

579 [(5)] (4) "Qualified motor vehicle" means a motor vehicle that is
580 used, designed or maintained for transportation of persons or property
581 and that (A) has two axles and a gross vehicle weight or registered
582 gross vehicle weight exceeding twenty-six thousand pounds; or (B) has
583 three or more axles regardless of weight; or (C) is used in combination
584 and the combined gross vehicle weight or registered gross vehicle
585 weight exceeds twenty-six thousand pounds; but does not include a
586 recreation vehicle that is used exclusively for personal pleasure, and
587 not used in connection with any trade or business, by an individual.

588 Sec. 16. Subsection (a) of section 31-71b of the general statutes is
589 repealed and the following is substituted in lieu thereof (*Effective from*
590 *passage*):

591 (a) [Except as otherwise provided in section 12-34b, each] Each
592 employer, by himself, his agent or representative, shall pay weekly all
593 moneys due each employee on a regular pay day, designated in
594 advance by the employer, in cash, by negotiable checks or, upon an
595 employee's written request, by credit to such employee's account in
596 any bank which has agreed with the employer to accept such wage
597 deposits.

598 Sec. 17. Subsection (i) of section 52-361a of the general statutes is
599 repealed and the following is substituted in lieu thereof (*Effective from*
600 *passage*):

601 (i) Any assignment by an employee of his earnings shall be void
602 except (1) payments due for support in public welfare cases [,] and
603 payments pursuant to a family support judgment, [and assignments
604 provided for in section 12-34b,] and (2) deductions for union dues and
605 initiation fees in accordance with the terms of a duly executed contract
606 between an employer and his employees or a collective bargaining
607 agent or in accordance with a duly executed authorization signed by
608 the employee for the payment of such dues or initiation fees or both to
609 such collective bargaining agent.

610 Sec. 18. Subdivision (4) of section 52-350a of the general statutes is
611 repealed and the following is substituted in lieu thereof (*Effective from*
612 *passage*):

613 (4) "Disposable earnings" means that part of the earnings of an
614 individual remaining after the deduction from those earnings of
615 amounts required to be withheld for payment of federal income and
616 employment taxes, normal retirement contributions, union dues and
617 initiation fees, group life insurance premiums, health insurance
618 premiums [,] and federal tax levies, [, and state income tax deductions
619 authorized pursuant to section 12-34b.]

620 Sec. 19. (*Effective from passage*) Sections 12-34b and 12-484a of the
 621 general statutes are repealed.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>
Sec. 9	<i>from passage and applicable to income years commencing on or after January 1, 2002</i>
Sec. 10	<i>from passage</i>
Sec. 11	<i>from passage</i>
Sec. 12	<i>from passage</i>
Sec. 13	<i>from passage and applicable to taxable years commencing on or after January 1, 2002</i>
Sec. 14	<i>from passage</i>
Sec. 15	<i>from passage</i>
Sec. 16	<i>from passage</i>
Sec. 17	<i>from passage</i>
Sec. 18	<i>from passage</i>
Sec. 19	<i>from passage</i>

FIN *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Fund-Type	Agency Affected	FY 03 \$
GF - Minimal Revenue Gain	Department of Revenue Services	See Below
GF - Precludes a Revenue Loss	Department of Revenue Services	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The following table presents the sections of the bill that have a fiscal impact. The sections not outlined in the table do not have a fiscal impact or make technical and conforming changes that clarify current practices by the Department of Revenue Services.

Sec.	Description	Fiscal Impact
1	Exempts services rendered after January 1994 in connection with an aircraft leased or owned under a FAA certificate or has a take-off weight of 6,000 pounds or more	One-time loss of approximately \$800,000 and an annual revenue loss of approximately \$200,000 per year.
7,8	Limits the Department of Revenue Services liability to pay interest on corporation and air carrier tax returns	Precludes a payment of interest on refunds of between \$20 and \$25 million in FY 03 and \$3 to \$5 million per year in succeeding fiscal years.

Sec.	Description	Fiscal Impact
9,13	Permits the Department of Revenue Services to impose penalties for the same tax period for both failing to file and failing to pay the tax, as long as the penalties relate to different tax returns	Results in a minimal revenue gain (less than \$100,000 per year)
14	Establishes a procedure for the Department of Revenue Services to recoup mistaken refunds	Results in a minimal revenue gain (less than \$100,000 per year)

OLR Bill Analysis

sSB 564

**AN ACT CONCERNING RECOMMENDATIONS OF THE
DEPARTMENT OF REVENUE SERVICES FOR CHANGES TO THE
SALES AND USE TAX AND CERTAIN ADMINISTRATIVE
PROCEDURES****SUMMARY:**

This bill:

1. grants exemptions from the sales and use tax for (a) certain management services rendered in connection with aircraft on and after January 1, 1994, and (b) food services provided to hospitals, senior living centers, residential care homes, and similar facilities;
2. limits the Department of Revenue Service's (DRS) liability to pay interest on corporation and air carrier tax refunds;
3. allows taxpayers to pay state taxes with debit and charge cards as well as credit cards;
4. allows DRS to impose penalties for the same tax period for both failing to file a corporate or income tax return and failing to pay the tax, as long as the penalties relate to different tax returns;
5. requires probate courts to adjourn hearings on appeals of DRS estate tax decisions if DRS does not appear and the court thinks the decision should be modified;
6. eliminates real estate conveyance tax filing requirements for easement conveyances involving the state or a political subdivision;
7. allows taxpayers to appeal DRS income tax jeopardy assessments;
8. establishes a procedure for DRS to recoup mistaken refunds; and
9. makes technical changes and eliminates outdated provisions.

EFFECTIVE DATE: Upon passage. The provisions concerning corporation and income tax penalties apply to income and taxable years, respectively, beginning or after January 1, 2002.

SALES AND USE TAX (§§ 1 AND 4)

This bill establishes sales and use tax exemptions for:

1. business analysis, management consulting, and public relations services rendered on and after January 1, 1994 in connection with an aircraft (a) leased or owned by a commercial air carrier operating under a Federal Aviation Administration (FAA) certificate or (b) that has a maximum FAA-certificated take-off weight of 6,000 pounds or more, and
2. food preparation or food services, and management of those services, for hospitals; assisted living facilities; senior or day care centers; or residential care, convalescent, nursing, or rest homes.

Virtually all types of aircraft have a certificated take-off weight threshold of 6,000 pounds or more, including helicopters.

INTEREST PAYMENTS ON CORPORATION AND AIR CARRIER TAX REFUNDS (§§ 7 AND 8)

The bill gives DRS three months from the date a return claiming overpayment of corporation or air carrier tax is due, excluding extensions, or filed, whichever is later, to credit or refund the overpayment before it must start paying interest on the refund. Under current law, except in cases of overpayments of estimated tax, DRS must pay 0.66% interest for each month or part of a month that elapses between the tax due date or payment date, whichever is later, and the date it gives notice that a refund is due.

Under the bill, for amended returns filed before the final filing date for the year or period, the three-month clock begins on the final filing date, excluding extensions. If the overpayment results from a carry back of a net operating or capital loss, interest owed must be determined as if the overpayment was made on the last filing date of the tax year in which the loss arises, excluding any extensions, and as if the overpayment applied to that year. In such a situation, the three-month clock starts running on the date the company files an amended return for the loss year claiming the overpayment. The bill applies the same treatment to overpayments resulting from tax credit carrybacks.

In addition, if an overpayment is claimed on a late-filed or amended tax return, the bill specifically disallows interest for any period before the return is filed. The bill states that the legislative intent of this provision is to clarify the law.

Under the bill, returns are considered filed only when they are filed on

authorized forms and include the taxpayer's name; address; identifying number; required signatures; and enough information, either on the return itself or in required attachments, to mathematically verify the tax liability shown in the return.

TAX PAYMENTS BY CHARGE AND DEBIT CARD (§ 6)

The bill allows taxpayers to use debit and charge cards, as well as credit cards, to pay taxes and allows the DRS commissioner to charge a service fee, not exceeding the card issuer's charge, on payments with such cards.

CORPORATION AND INCOME TAX PENALTIES (§§ 9 AND 13)

By law, anyone who fails to pay the corporation or income tax shown on his tax return by the required due date, or who has not filed a tax return within three months after the due date, is subject to penalties and interest. This bill allows DRS to subject someone who commits both violations (i.e., failure to file and failure to pay) for the same tax period to penalties and interest for both, as long as the violations relate to different tax returns (e.g., a regular and an amended return). Under current law, a taxpayer cannot be penalized for both failure to pay and failure to file a return if the violations relate to the same tax period.

ESTATE TAX MODIFICATION HEARINGS (§ 10)

The bill requires a probate court to adjourn, for at least 10 days, its hearing on an appeal of any DRS decision or order concerning the estate tax if no one appears on the commissioner's behalf at the initial hearing and the court thinks his decision should be modified. The bill also requires the court to notify the commissioner of the time and place of the rescheduled hearing and its proposed modification of his decision and allow the commissioner to appear and be heard on the modification at the rescheduled hearing.

By law, people aggrieved by a DRS decision or order concerning the estate tax can appeal it to the probate court for the district where the decedent lived or, if the person lived out of state, the district where the property in question is located. The court must hold a hearing on the matter, at which the commissioner may appear and be heard.

REAL ESTATE CONVEYANCE TAX RETURNS FOR CERTAIN EASEMENTS (§ 11)

The bill eliminates the requirement to file a real estate conveyance tax return with the appropriate town clerk when the state, a political subdivision, or any agency of the state or a political subdivision is a party to the conveyance and the only thing being conveyed is an easement. Such conveyances are already exempt from the tax.

INCOME TAX JEOPARDY ASSESSMENT APPEALS (§ 12)

The bill allows taxpayers aggrieved by a DRS income tax jeopardy assessment to appeal the commissioner's determination or disallowance under the assessment to Superior Court within one month of receiving it according to the same appeal procedures that already apply to deficiency assessment and refund determinations and disallowances. By law, the commissioner can demand immediate payment of personal income taxes when he believes a delay will jeopardize collection of the tax. Such a jeopardy assessment becomes final 10 days after notice is served on the taxpayer unless the taxpayer files a written protest with the commissioner within that time.

RECOUPING MISTAKEN REFUNDS (§ 14)

The bill establishes a procedure for the commissioner to recoup incorrect tax refunds made on or after January 1, 2002. Under the bill, incorrect refunds must be considered underpayments of tax as of the date they are made. It allows the commissioner to use the deficiency assessment procedures, including interest and penalties, that apply to the particular tax involved, to recover the money within three years of the refund date. The three-year limit does not apply when the mistaken refund was the result of fraud or factual misrepresentation.

OBSOLETE PROVISIONS (§§ 15-19)

The bill eliminates obsolete provisions:

1. allowing DRS to establish and enforce information-sharing agreements with New York or other out-of-state tax jurisdictions if needed to secure tax advantages for Connecticut residents under the other jurisdictions' laws,
2. a redundant provision allowing Connecticut employers of out-of-state residents to withhold another state's taxes from their wages according to specified procedures (these situations are also covered

by CGS § 12-706),

3. defining “charter” and “special operations” for purposes of the motor carrier road tax (this change conforms the law to 1995 changes of the definition of motor carriers subject to the tax), and
4. allowing a passenger motor carrier subject to the tax that provides a small amount of special or charter services in addition to its regularly scheduled services to exclude the special services from its quarterly tax returns.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 43 Nay 0